IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 8950 of 2005

Between:

K. KONDAIAH, S/o. K. Narayana, Hindu,
R/o. D.No. 4-13, Vidyaranyanagar,
Anantapur District.

..... PETITIONER

AND

1 The Depot Manager, APSRTC, Ananthapur Depot, Ananthapur.
2 The Divisional Manager, APSRTC, Ananthapur Division, Ananthapur.
3 The Regional Manager, APSRTC, Ananthapur Region, Ananthapur.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus or any other appropriate writ declaring the proceedings No.02/62/(47)/92 APT dt.30-6-1992 of the 1st respondent, Proceedings No.PA/20(331)/92.DVM'A' dt.17-4-1993 as illegal, arbitrary, in violation of Principles of natural justice and in violation of Art.14 and 21 of the constitution of India, and consequentially direct the respondents to add the increment to the pay of the petitioner when ever due falls as usually and pass such other or further orders.

Counsel for the Petitioner:MR.Y.VENUGOPAL REDDY

Counsel for the Respondent Nos.1 to 3: MR.P.VINAYAKA SWAMY

The Court at the admission stage made the following O R D E R:

The petitioner was working as a Conductor in the respondent-Corporation. While so, the respondent-Corporation issued charge sheet alleging cash and ticket irregularities. After receiving explanation of the petitioner, the first respondent passed final orders on 30.06.1992 imposing the punishment of withholding one increment for a period of one year with cumulative effect. Aggrieved by the same, the petitioner preferred an appeal to the second respondent, who by order dated 17.04.1993, modified the order to that of withholding increments for six months with cumulative effect. Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioner relied on a Judgment of the Supreme Court in **Kulwant Singh Gill v. Sate of Punjab** wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without enquiry. The petitioner, therefore, seeks to declare that the order is illegal and it is liable to be set aside.

The petitioner after receiving the adverse orders slept over the matter for a period of 12 years. There are laches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside on account of long lapse of time, but in view of the judgment of the Supreme Court in Kulwant Singh Gill's case (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as withholding increment for six months without cumulative effect. By virtue of this order, petitioner is not entitled for any monetary benefits from the date of punishment till this date. But, however, he is entitled for increments on notional calculation. No order as to costs.

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(K.C.BHANU,J)

Dt:21st April, 2005

usd

To

1 The Depot Manager, APSRTC, Ananthapur Depot, Ananthapur.
2 The Divisional Manager, APSRTC, Ananthapur Division, Ananthapur.
3 The Regional Manager, APSRTC, Ananthapur Region, Ananthapur.

4 Two CD copies.